

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ILLINOIS  
BENTON DIVISION

IN RE: ) Chapter 7 Proceeding  
)  
SHOOTS CONSTRUCTION, INC., ) No. 04-61042  
)  
Debtor. )

**MOTION TO LIFT THE AUTOMATIC STAY**

Now comes DAVID TANNER, Creditor, by and through his attorneys, HELLER, HOLMES & ASSOCIATES, P.C. and GREGORIO & ASSOCIATES, LTD., and moves this Honorable Court for the entry of an Order lifting the automatic stay to allow Creditor to proceed against Debtor's insurance proceeds, pursuant to 11 U.S.C. § 362(d), and in support thereof, states as follows:

1. David Tanner has a personal injury claim stemming out of an injury which occurred on September 19, 2001 while he worked as a union ironworker while at a construction project in Danville, Vermilion County, Illinois.

2. A lawsuit is pending in Vermilion County, captioned David Tanner, plaintiff, v. CDI, Inc., Menards, Shoots Construction Company, Inc. ("Shoots"), et al., defendants, case no. 2004L 000048D 001.

3. Shoots filed bankruptcy on or about September 21, 2004. Liability insurance coverage exists for Shoots Construction, Inc. for the claim being made by Creditor. Shoots has a commercial liability insurance policy with Erie Insurance Group and the policy has bodily insurance limits of \$1,000,000.00 per occurrence.

4. Creditor is seeking to lift the automatic stay so he can proceed with his lawsuit in Vermilion County against Shoots and the other named defendants.

5. David Tanner would only recover from Shoots to the extent insurance coverage exists for the claim.

6. No harm will come to Shoots from this Court lifting the stay, as the liability policy provides for Shoots defense as well as coverage limits. Shoots will not be harmed financially by David Tanner's pursuit of this lawsuit.

7. Shoots' bankruptcy attorney and the trustee named in Shoots' bankruptcy action have indicated they have no objection to David Tanner's request to lift the automatic stay to proceed against the insurance coverage held by Shoots.

WHEREFORE, Creditor, DAVID TANNER, respectfully prays that this Honorable Court lift the automatic stay so that he can proceed with his lawsuit pending in Vermilion County, case number 2004L 000048D 001 against Debtor, Shoots Construction, Inc., to the extent of liability insurance coverage, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

DAVID TANNER, Creditor

By /s/ Jason M. Crowder  
Of Heller, Holmes & Associates, P.C.  
His Attorneys

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that a true and correct copy of the foregoing was either electronically served or mailed by U.S. Mail, postage fully paid, this 8th day of November, 2004, to the following:

Robert T. Bruegge  
Attorney at Law  
400 St. Louis St., Suite 2  
P.O. Box 749  
Edwardsville, IL 62025

Roy Jackson Dent  
Brankey & Smith, P.C.  
622 Jackson Avenue  
Charleston, IL 61920

/s/ Jason M. Crowder

Subscribed and sworn to before me  
this 8th day of November, 2004.

/s/ Katherine J. Storm  
Notary Public

JASON M. CROWDER  
HELLER, HOLMES & ASSOCIATES, P.C.  
1101 Broadway, P. O. Box 889  
Mattoon IL 61938  
TEL: 217-235-2700  
FAX: 217-235-0743  
a:tanner.motion/kjs2004-48/11052004

-and-

TIMOTHY E. TAKASH  
GREGORIO & ASSOCIATES, LTD.  
Two N. LaSalle St., Suite #1650  
Chicago, IL 60602  
TEL: 312-263-2343  
FAX: 312-263-2512